

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSE ALFREDO SUAREZ,

Plaintiff,

v.

O. VALLADOLID, et al.,

Defendants.

No. 1:22-cv-00160-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION  
FOR COPY OF TRANSCRIPT AT  
GOVERNMENT EXPENSE

(ECF No. 162)

Following a jury trial in this matter pursuant to 42 U.S.C. § 1983, judgment was entered in favor of Defendants on August 14, 2024. Plaintiff filed a notice of appeal on August 26, 2024.

Currently before the Court is Plaintiff's motion for a copy of the transcript at government expense, filed August 26, 2024. (ECF No. 162.) Plaintiff requests a copy of the transcript "for purposes of preparing his appeal." (Id. at 2.)

Plaintiff's request must also be denied because the use of public funds on behalf of an indigent litigant is only proper when authorized by Congress. United States v. MacCollom, 426 U.S. 317, 321 (1976); see also Tedder v. Odel, 890 F.2d 210, 211-12 (9th Cir. 1989) (citing Macollom).

The request for transcripts at public expense is governed by two separate statutes: 28 U.S.C. § 753(f) and 28 U.S.C. § 1915(c). Pursuant to 28 U.S.C. § 1915(c), there are limited circumstances under which this court can direct the government's payment of transcripts for a

1 litigant proceeding in forma pauperis. Section 1915(c) provides that “the court may direct  
2 payment by the United States of the expenses of ... printing the record on appeal if such printing  
3 is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c)  
4 of this title.” In this case, the Ninth Circuit Court of Appeal has not informed this Court that  
5 printing of the record on appeal is required in this action.

6 Section 753(f) allows for the government to pay for transcripts provided to plaintiffs in  
7 civil matters, it does so only when either the trial or circuit judge has certified that the appeal is  
8 not frivolous and that the transcript is needed to decide the issue presented on appeal. 28 U.S.C. §  
9 753(f); Henderson v. United States, 734 F.2d 483, 484 (9th Cir. 1984) (stating court order  
10 directing production of transcript at government expense pursuant to Section 753(f) constitutes  
11 implicit finding by court that appeal presents substantial issue). Neither court has certified that  
12 the appeal is not frivolous. The docket fails to indicate that certification by either court that the  
13 appeal is not frivolous has occurred. In addition, neither the District Court, nor the Ninth Circuit  
14 have indicated that the trial transcript will be needed on appeal. For these reasons, Plaintiff’s  
15 motion for transcripts at government expense is DENIED.

16  
17 IT IS SO ORDERED.

18 Dated: September 18, 2024

  
UNITED STATES MAGISTRATE JUDGE